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IN THE CIRCUIT COURT OF THE THIRD CIRCUIT  
STATE OF HAWAII

GEORGE L. TADEO, Individually )	CIVIL NO. 03-1-0260
and as the Special )	
Administrator of the Estate )	
of KAU'ILANI TADEO, TUMATA H. )	
TADEO, )	
Plaintiffs, )	
vs. )	
MARK DAVIS, JR., MARK DANIEL )	
DAVIS, ELLEN PEARL DAVIS, )	
JOHN DOES 1-20, )	
Defendants. )	
_____ )	

DEPOSITION OF MARK DAVIS, JR.,

Taken on behalf of Plaintiffs, at the Oahu Community  
Correctional Center, 2199 Kamehameha Highway, Honolulu,  
Hawaii, commencing at 11:20 a.m., on Saturday, February 4,  
2006, pursuant to Notice.

BEFORE: CYNTHIA M. SMITH, C.S.R. NO. 153

CARNAZZO COURT REPORTING CO.  
(808) 532-0222

1                   Notary Public, State of Hawaii

2

3           APPEARANCES:

4

5           Attorney for Plaintiffs:       JOY A. SAN BUENAVENTURA, ESQ.  
6   101 Aupuni Street  
7   Suite 311  
8   Hilo, Hawaii 96720

9

10           Attorney for Defendants:   THOMAS TSUCHIYAMA, ESQ.  
11    Matsui, Chung, Sumida &  
12    Tsuchiyama  
13    737 Bishop Street  
14    Suite 1400 Mauka Tower  
15    Honolulu, Hawaii 96813

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I N D E X

EXAMINATION BY: PAGE:

Ms. San Buenaventura 4

EXHIBITS MARKED FOR IDENTIFICATION: PAGE:

Ex. A	House diagram, 1st Flr.	18
Ex. B	House diagram, 2nd Flr.	19
Ex. C	House diagram, 3rd Flr.	23

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1                   (Pursuant to Rule 14 of the Rules Governing Court  
2     Reporting in Hawaii, the Reporter's Disclosure was made  
3     available and is attached hereto.)

4                   MARK DAVIS, JR.,  
5                   called as a witness on behalf of the Plaintiffs,  
6     having been duly sworn, was examined and testified as  
7     follows:

8                   EXAMINATION

9     BY MS. SAN BUENAVENTURA:

10    Q.     Could you say "yes"?

11    A.     Yes.

12    Q.     Mark, is your full name Mark Davis, Junior?

13    A.     I think.

14    Q.     What is your full name?

15    A.     I don't think like junior. I know my name is Mark  
16    Davis. I don't know about Junior.

17    Q.     Sometimes do they call you Sparky?

18    A.     Not no more.

19    Q.     Not any more. When is the last time they called you  
20    Sparky?

21    A.     I don't know.

22    Q.     You don't know?

23    A.     (Nods negatively.)

24    Q.     Now, next to you is your attorney. You have met him  
25    before; is that right? You have met Tom?

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1 A. Yes.

2 Q. Yes. Now, do you know where you're going on Monday?

3 A. To the Mainland.

4 Q. Yes. Did you talk to your counselor before today?

5 A. What counselor?

6 Q. Do you remember Mike Chun?

7 A. Mike Chun?

8 Q. Yeah. Mike. Do you remember Mike?

9 A. I don't remember.

10 Q. That is okay. Do you know what we are doing today?

11 A. Talking to me.

12 Q. Yes. And I will be asking questions. And you're

13 going to answer them. Do you understand that?

14 A. Yes.

15 Q. And do you understand that whatever your answers are

16 need to be truthful?

17 A. Yes.

18 Q. Do you know the difference between the truth and a

19 lie?

20 A. I think. I try my best.

21 Q. You will do your best to answer truthfully?

22 A. Yes.

23 Q. And you will do your best to answer as much as you

24 remember?

25 A. Yes.

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1 Q. Thank you. Now, do you go to school over here?

2 A. No.

3 Q. Did you go to school over at the youth correctional  
4 facility?

5 A. The State Hospital?

6 Q. Yes.

7 A. Yes. Sometimes, sometimes not.

8 Q. Okay. What was the last grade you went to?

9 A. They don't have no grade at the State Hospital. You  
10 just go to school.

11 Q. Do you know how to read or write?

12 A. No.

13 Q. No. Now, as you can tell she is typing something up  
14 over here. And it will be written up in words. Will you  
15 have somebody who can read this for you if you need to?

16 A. No. I don't like no one.

17 Q. You don't let anybody read it for you? When you have  
18 letters that come to you do you read it or does somebody read  
19 it for you?

20 A. Read it for me.

21 Q. Okay. So if this comes in the mail for you will you  
22 have somebody read it for you?

23 A. On the Mainland?

24 Q. Yes.

25 A. Yes, my counselor over there.

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1 Q. Yes. Will you be able to have somebody read it for  
2 you on the Mainland?

3 A. Yes.

4 Q. And if you if you hear anything that is wrong will  
5 you tell the person who you have read it to you that it's  
6 wrong?

7 A. (Witness nods.)

8 Q. Yes?

9 A. (Witness nods.)

10 Q. You have to say yes or no.

11 A. Yes.

12 Q. Thank you. Now, if you don't understand what I am  
13 asking will you tell me that you don't understand?

14 A. Yes.

15 Q. Thank you. If you need a break will you tell me you  
16 need a break?

17 A. Yes.

18 Q. Are you on any medication right now?

19 A. Yes.

20 Q. What kind of medication?

21 A. Haldol. Sertral. (Phonetic)

22 Q. "Sitral"?

23 A. Sertral. And some other four medicine in the morning  
24 time.

25 Q. Four medicine. Does that stop you from remembering?

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1 Does all the medication stop you from remembering?

2 A. Like the psyche medicine?

3 Q. They're psyche medicine?

4 A. For my head, and for me, keep me focused and stop me  
5 from hearing voices.

6 Q. Do you hear voices now?

7 A. I taking my medicine now.

8 Q. So you're not hearing any voices other than what we  
9 are saying now?

10 A. Yes.

11 Q. Do you know why you're here in prison?

12 A. Because I ran away.

13 Q. You ran away from where?

14 A. The hospital.

15 Q. Do you know why you were in the hospital?

16 A. To get help.

17 Q. To get help?

18 A. Treatment.

19 Q. To get treatment. And why did you run away from the  
20 hospital?

21 A. Because they was treating me mean.

22 Q. Okay.

23 MR. TSUCHIYAMA: Before we go too far, are there  
24 pending criminal charges for the running away from the  
25 hospital?

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1 THE WITNESS: Yes.

2 MR. TSUCHIYAMA: Okay. I am not your criminal  
3 lawyer, but you have the right to plead the Fifth, yeah. So  
4 you don't have to answer these questions that could  
5 incriminate you, because these charges for escaping or  
6 running away from the hospital are still pending. Yeah?

7 So you have the right, you know, not to answer these  
8 questions, but you have to say that you're invoking that  
9 right.

10 THE WITNESS: I think they pending because they said  
11 I had psychiatric issues.

12 Q. (By Ms. San Buenaventura) Didn't you go to court  
13 yesterday?

14 A. Yes.

15 Q. And, Mr. Tsuchiyama, my understanding was that the  
16 escape issue was supposed to have been resolved by the  
17 hearing yesterday.

18 A. I think, yeah. I don't remember. I try to  
19 remember. I think they said I have psychiatric issues, and  
20 it wasn't my fault.

21 Q. Okay. So that is fine. I am not going to go into  
22 that. I just want to know about you being in the hospital.

23 Do you remember being arrested?

24 A. (Nods negatively.)

25 Q. No. Do you remember living on the Big Island on

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1 Opihi Street?

2 A. No.

3 Q. No. Before you were in the hospital do you remember  
4 living with your parents and your brothers and sister?

5 A. It's been so long. I don't even remember. They get  
6 me on all this medicine though I can't think.

7 Q. When is the last last time you talked to your father  
8 and/or your mother?

9 A. I don't speak to them no more.

10 Q. Do they write to you?

11 A. They don't got this place address.

12 Q. Okay. When was the last time your father wrote to  
13 you or called you?

14 A. I don't want to speak to him no more.

15 Q. Why not?

16 A. Because he sexually brused (phonetic) me.

17 Q. Excuse me?

18 A. Sexual brused (Phonetic) me.

19 Q. When did he sexually abuse you?

20 A. When I was on the Big Island.

21 Q. Did you tell anybody that?

22 A. Yes. I went to the Mainland at this placement, when  
23 the Court sent me there on the Big Island I think. I told  
24 the lady, her name was Thacker Poorman.

25 Q. Okay. When did he sexually abuse you? Before or

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1 after you got arrested?

2 A. What you mean by that?

3 Q. When did he sexually abuse you?

4 A. When I was, when we was in the Mainland, when we used  
5 to live on the Mainland when I was just a little boy. And  
6 when we moved over to the Big Island.

7 Q. What did he do to you in the Big Island?

8 A. I don't want to talk about that.

9 Q. Do you talk to your mother now?

10 A. I tell -- I think I remember when I went to  
11 counseling up at the placement where I was at in Michigan, we  
12 talked about it with my therapist.

13 Q. When you were in Michigan you talked about the sexual  
14 abuse?

15 A. With my therapist. And an investigation was supposed  
16 to happen. But I think it never did.

17 Q. Did you talk with somebody on the Big Island?

18 A. No.

19 Q. Did you tell your mother about the sexual abuse by  
20 your father?

21 A. He had beat my mom.

22 Q. Would he sexually abuse your brother and sisters?

23 A. I never -- I don't know.

24 Q. When was the last time you talked to your mother?

25 A. I think when I was at the State Hospital.

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1 Q. When was the last time you saw your mother?

2 A. Been so long. 2004 on the Mainland.

3 Q. On the Mainland.

4 A. When I was in Michigan.

5 Q. When you were in Michigan in 2004 was that a  
6 hospital?

7 A. Yes. Like a placement in the hospital was together.  
8 Once I was regular people, and once I was like psychiatric  
9 people.

10 Q. Do you know why they put you, brought you to Michigan  
11 for this hospital?

12 A. Huh-huh.

13 Q. No. When was the last time you talked to your  
14 brothers? Or your brother? That would be Neal, yeah?

15 A. Neal. I think, yeah.

16 Q. When was the last time you talked to Neal?

17 A. When I was sent to State Hospital.

18 Q. Over here in Honolulu?

19 A. Yes.

20 Q. How about Kelly and Jasmine your sisters?

21 A. Yes, I spoke to them.

22 Q. Do you still speak to them?

23 A. Uh-huh.

24 Q. When was the last time?

25 A. At the State Hospital.

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1 Q. Do you remember what it was like when you were living  
2 on the Big Island?

3 A. In the house where I was living, messed up. My dad  
4 used to beat us and stuff.

5 Q. Including your brothers and sisters?

6 A. And my mom.

7 Q. And your mom. Nobody tried to stop him?

8 A. My mom would try but my dad had guns in the house.

9 Q. Oh, my goodness. Didn't you have other people living  
10 in that house other than you?

11 A. They sexually abused me too. They was my dad's  
12 friends.

13 Q. They sexually abused you too. What were your dad's  
14 friends' names?

15 A. I don't know their names.

16 Q. Do you remember somebody by the name of Ed Fritzer?

17 A. (Nods negatively.)

18 Q. No?

19 A. No.

20 Q. Do you remember Jennifer?

21 A. My sister?

22 Q. Is Jennifer your sister?

23 A. Yes.

24 Q. How many sisters do you have?

25 A. Four.

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1 Q. So you have Jennifer, you have Jasmine, Kelly, and  
2 who is the fourth one?

3 A. Neal.

4 Q. Neal is your brother?

5 A. Yeah. Yes.

6 Q. Do you remember somebody by the name of Ed who was  
7 also living at your house on the Big Island?

8 A. He used to have a boat?

9 Q. Yes, he did.

10 A. Oh, yes, he used to drug me up and stuff with heroin.  
11 Me, he drug me up, my dad let him.

12 Q. Your dad let him drug you up with heroin?

13 A. Yes. My dad used to beat my mom up and tie her up  
14 and drug my mom up too.

15 Q. Do you remember you're supposed to be telling the  
16 truth, so everything you have been telling us so far is the  
17 truth?

18 A. Yes.

19 Q. Did you tell the police about Ed with the boat  
20 drugging you up with heroin?

21 A. I don't want my dad kill us. Because my dad was a  
22 mean fighter. He had an anger in him. Like you do as a  
23 simple thing you touch, like the food, he would get real mad  
24 and start hitting you with sticks, what you call that,  
25 plywood with nails in it.

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1 Q. He would do that, huh?

2 A. (Nods affirmatively.) I had a scar on my leg where  
3 he threw hot grease on me. I got a big burnt on my leg.

4 Q. Did you tell your teachers about that?

5 A. I think my teachers knew what was going on in the  
6 house. Because my dad used to drug me up, and I used to go  
7 to the school all sleepy and stuff. I think the school  
8 already knew about that.

9 Q. When do you mean your daddy drug you up? What did he  
10 do to you?

11 A. Stick heroin in my arm while I was sleeping. I  
12 think.

13 Q. Do you still have -- How would he stick heroin in  
14 your arm?

15 A. I think in my arm.

16 Q. If we look at your arm what will we see when we look  
17 at your arm?

18 A. It been so long. I think with a needle and stick it  
19 in my right, right here. (Indicating)

20 Q. On your left arm?

21 A. Yeah. In my veins.

22 Q. In your veins. What does it feel like when he does  
23 that?

24 A. I don't know, I get knocked out. And I don't know  
25 what he do to me. That way I think he sexually abused me.

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1 That's the only reason why I think he did it.

2 Q. He would drug you up to sexually abuse you?

3 A. (Nods affirmatively.) And I don't remember no more  
4 after that.

5 Q. Do you remember anybody by the name of Hawaiian Joe?

6 A. Yes.

7 Q. Okay. Was he staying at your house over at the Big  
8 Island?

9 A. He only kept, he stored a van over there.

10 Q. He had a son, didn't he?

11 A. Yes.

12 Q. Did his son stay with you at the Big Island?

13 A. I don't really know. They always come in the house  
14 and do drugs. Smoke weed, stick needles in their arms, do  
15 crystal meth, stuff like that.

16 Q. Did they offer it to you?

17 A. I don't remember.

18 Q. You don't remember. Okay. Do you remember somebody  
19 by the name of Bagle, Martin John Bagle?

20 A. He stayed in the house too?

21 Q. That's what I read. I don't know. Do you know  
22 whether or not he stayed at the house?

23 A. (Nods negatively.)

24 Q. You don't remember?

25 A. No.

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1 Q. How about Holly?

2 A. The lady?

3 Q. Yeah.

4 A. She used to do drugs too.

5 Q. Did she stay at the house too?

6 A. Yes.

7 Q. With her daughter?

8 A. Yes.

9 Q. Did any of them give drugs to you?

10 A. Yes.

11 Q. In front of your parents?

12 A. No.

13 Q. Did your parents know that they gave drugs to you?

14 A. Only my dad.

15 Q. Only your dad. Your mom did not know that he was

16 giving drugs to you?

17 A. (Nods negatively.) No.

18 Q. How about Aaron Johnson?

19 A. He stayed in the house too?

20 Q. That's what I read. Do you remember whether or not

21 he did?

22 A. That many people stayed in the -- I don't even

23 remember.

24 Q. You don't remember. How many people stayed in your

25 house on the Big Island?

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1       A.       I don't know. I think they was giving my dad drugs  
2       to day in the house.

3       Q.       Now, I have here diagrams that the police did of your  
4       house. And can you tell me whether or not they look like  
5       something, if you remember, whether or not they're diagrams  
6       that are right about your house?

7               They say this is the third floor. (Indicating)

8       A.       Downstairs?

9       Q.       No, this is the third floor, the top floor.  
10       Downstairs would be this one.

11              Does this sort of look like downstairs with the  
12       landing? And a washroom and the front entry? And the  
13       garage? Yes?

14       A.       And got another garage on the other side.

15       Q.       Yeah. They call it an open area.

16       A.       That was the open area too.

17       Q.       The garage was an open area?

18       A.       Yeah. Both of them was open.

19       Q.       Okay. So basically that looks like the first floor,  
20       the ground floor; is that correct?

21       A.       Uh-huh.

22       Q.       I am going to mark that as Exhibit A.

23                               (Exhibit A marked for  
24                               Identification.)

25       Q.       (By Ms. San Buenaventura) Now, do you remember on

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1 the Big Island whether or not anybody lived on this first  
2 floor?

3 A. No.

4 Q. Nobody lived there?

5 A. (Nods negatively.)

6 Q. Now, let's go look at the second floor. This is what  
7 the police said.

8 Does this look like the second floor where there is a  
9 bedroom here in the corner, top left corner, there is a  
10 bathroom?

11 A. Someone was living in.

12 Q. Somebody was living in there?

13 A. Number three area.

14 Q. Let's go talk about generally. Does this sort of  
15 look like the layout of the second floor with a bedroom, the  
16 patios on the top and the bottom, a landing, a walk-in closet  
17 and a bedroom here on the right? Does this look like a  
18 layout of the second floor?

19 A. Yeah.

20 Q. Yes. I'd like to have that marked as Exhibit B.

21 (Exhibit B marked for

22 Identification.)

23 Q. (By Ms. San Buenaventura) Now, who would live in  
24 this bedroom that you said in number three? The last time  
25 you remember?

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1 A. The man.

2 Q. A man. Would it be Ed Fritzer? Or Ed Fiddes?

3 A. I don't know. My dad used to go, they all used to go  
4 inside that room.

5 Q. When you mean all of them, that would be the man,  
6 your dad and who else?

7 A. I think all of them.

8 Q. Holly also?

9 A. Who is that?

10 Q. The girl with the daughter.

11 A. I don't know. I only I think all the man's went  
12 inside there.

13 Q. All the men went into bedroom three. But you knew  
14 somebody lived in bedroom three, but not your family?

15 A. Huh-huh.

16 Q. No?

17 A. They didn't go inside there.

18 Q. Did anybody live in the patio, the bottom patio?

19 A. I remember we used to play video games out there.

20 Q. So you played video games, so nobody lived in the  
21 patio at the bottom of Exhibit B?

22 A. Huh-huh.

23 Q. No. How about the patio at the top of Exhibit B?

24 A. My dad used to grow marijuana plants out there.

25 Q. I see. How about the bedroom number two?

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1 A. My sisters.

2 Q. And that would be Kelly, Jasmine, and Jennifer?

3 A. (Witness nods.)

4 Q. Yes?

5 A. Yes.

6 Q. Okay. How about bedroom number one, who would live

7 in bedroom number one?

8 A. With the walk-in closet?

9 Q. Yes.

10 A. My mom.

11 Q. Your mom. Okay. Now --

12 A. And the little baby. My mom's little baby. My other

13 sister.

14 Q. Had a little baby?

15 A. Yeah. Lana.

16 Q. Where would your dad live?

17 A. In the same room.

18 Q. With your mom?

19 A. Yes.

20 Q. When you mean that everybody would hang out at the

21 bedroom number three do you know what they would be doing?

22 A. I think I remember they the ones took me inside there

23 and sexually abused me.

24 Q. They sexually abused you there?

25 A. Yeah. That's what I was talking to you about.

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1 Q. In bedroom number three?

2 A. (Witness nods affirmatively.)

3 Q. Is there a TV there?

4 A. Yes.

5 Q. Do you remember seeing any videos with naked ladies  
6 or naked men?

7 A. I don't remember.

8 Q. You don't remember that. Okay. Now let's go talk  
9 about the third floor. Okay? Does this look like the third  
10 floor where there is a deck at the top left?

11 A. They had like a stove out there.

12 Q. I don't know. Is there a stove up there on the deck?

13 A. I think my dad used to cook stuff, like cook "rock"  
14 and stuff. You know what that is, like "rock" when you  
15 smoke.

16 Q. Like crystal meth, ice, he could cook up here on the  
17 deck?

18 A. Yes.

19 Q. Is this where you would live, here on the third  
20 floor?

21 A. Me?

22 Q. Yes.

23 A. Yes.

24 Q. Does this look like the layout of the third floor  
25 with the kitchen and the dining room on the top left and the

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1 then top right the living room?

2 A. Yeah, I used to live in the living room.

3 Q. You would live in the living room?

4 A. Wait. Where that other part is there?

5 Q. It says "Mark Davis Junior sleeping area." You would  
6 live right there in the living room?

7 A. Yes.

8 Q. It looks like there is stairs?

9 A. Yes.

10 Q. And it's the bathroom. I would like to have that  
11 marked as Exhibit C.

12 (Exhibit C marked for  
13 Identification.)

14 Q. (By Ms. San Buenaventura) Other than you living up  
15 there and your dad cooking rock on the deck was anybody else  
16 living on the third floor?

17 A. No. Just me and my brother.

18 Q. And that would be Neal?

19 A. Yeah.

20 Q. And you?

21 A. (Witness nods.)

22 Q. Now, at the time do you remember when the police came  
23 to this house the first time?

24 A. What that is? I don't remember.

25 Q. Do you remember when the police showed up at all at

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1 your house?

2 A. (Nods negatively.)

3 Q. You don't remember walking down with your arms over  
4 your head?

5 A. No.

6 Q. No. Okay. You don't remember a second or a third  
7 time when the police came to search the house?

8 A. While I was in the house?

9 Q. I don't know. If you remember?

10 A. Huh-huh, no.

11 Q. Okay. Well, let me just make a statement, that the  
12 police found some marijuana, and you had already testified  
13 that it would be in the patio. Do you know of any other  
14 areas in the first floor, the second floor, the third floor  
15 where there would be marijuana?

16 A. I think my dad told my sisters and brothers to hide  
17 it.

18 Q. Okay. Where did they hide it?

19 A. Because they had big bags of it, like pounds of it.

20 Q. How big? Like five inch big? (Indicating)

21 A. Can you open your hand more?

22 Q. Let the record reflect it's more like ten inches  
23 wide.

24 A. Yeah. Wide and fat. Big bag.

25 Q. So like five inches fat, like this?

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1 A. Yeah.

2 Q. About ten inches by five?

3 A. And the bag real big. Like that big. (Indicating)

4 Q. About a foot tall?

5 A. Yeah. About 6 bags of those.

6 Q. 6 bags of those. So it would be a foot by ten inches  
7 by five inches?

8 A. Yes.

9 Q. And there is like ten of those?

10 A. Yeah. And in the walk-in closet I think he had  
11 plants inside of about 6 pounds drying out.

12 Q. Drying out. On the second floor walk-in closet?

13 A. Yes. And my dad went had the guns inside there.

14 Q. In the second floor walk-in closet on Exhibit B?

15 A. Yeah. And they had like another closet where that  
16 other, that is the one with the walk-in closet.

17 Q. Exhibit B.

18 A. What that other part there?

19 Q. You mean the bedroom one, there is a walk-in closet?

20 A. They got another closet on the right by the patio.  
21 Right by the door.

22 Q. By the patio there would be another closet, these are  
23 where the bedrooms are on the second floor?

24 A. Yes. Where the patio at.

25 Q. By the patio there is a closet, is what you're

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1 saying?

2 A. Yeah. And like my dad kept the M-16 all the way up  
3 on the -- what you call that. You open the closet and got,  
4 like going, you look up, and they're all open.

5 Q. Is that an attic?

6 A. No. Not that. It's like a --

7 Q. You mean on the third floor, would there be like an  
8 attic on the third floor?

9 A. I don't know nothing about that. But on this floor  
10 where the patio on.

11 Q. On the second floor?

12 A. The patio, where that on the -- can you point to it?

13 Q. The patio at the very top? The back?

14 A. The front one.

15 Q. The one where you play the video games at?

16 A. Yeah, you see that part there?

17 Q. I see it there. There is a closet there?

18 A. Not that one, the other one.

19 Q. Right by bedroom three?

20 A. Right by the stairs.

21 Q. I see. The closet by the stairs.

22 A. Yeah. My dad kept all his guns inside there, like it  
23 was open, you look up, they looked, had this like a space  
24 where you can slide stuff at. He had all the guns right  
25 there.

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1 Q. Did you have access to those guns? Could you get to  
2 it if you need to?

3 A. Yes.

4 Q. Could you get to the marijuana in the walk-in closet  
5 if you need to?

6 A. Yes.

7 Q. Could you get to the marijuana on the patio if you  
8 need to?

9 A. Yes.

10 Q. Were you ever caught with any marijuana by your  
11 parents?

12 A. Um, my dad let me smoke it. But not my mom. My mom  
13 always said put that stuff away, you don't supposed to be  
14 doing that.

15 Q. But your dad would let you smoke it?

16 A. Yes.

17 Q. Do you know how it felt like when you smoked it?

18 A. No. It used to knock me out.

19 Q. Do you remember the little girl named Kau'i?

20 A. No.

21 Q. You don't remember her at all?

22 A. (Nods negatively.)

23 Q. Do you know whether or not you were accused of  
24 killing this little girl?

25 A. No.

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1 Q. No. The police didn't ask you whether or not you  
2 played or --

3 A. No.

4 Q. No. Now, before you went to the hospital -- well,  
5 sorry. Do you remember being arrested?

6 A. At the hospital?

7 Q. No. Not at the hospital. But at your house?

8 A. No.

9 Q. You don't remember your parents or the police taking  
10 you to the police headquarters from your house on the Big  
11 Island?

12 A. All I remember I was at State Hospital.

13 Q. That is the last thing you remember?

14 A. (Nods affirmatively.)

15 Q. What is the last thing you remember about the Big  
16 Island?

17 A. I don't remember, it's been so long. Because I don't  
18 think about it no more. I don't even remember.

19 Q. Why don't you think about it any more?

20 A. Because I can't remember. Because all this medicine,  
21 it block all that stuff out, the medicine what I on.

22 Q. If I show you diagrams like A, B and C here --

23 A. It come back a little.

24 Q. I see. Now, do you remember going to school on the  
25 Big Island?

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1 A. Pahoa?

2 Q. Yes.

3 A. Yes.

4 Q. Okay. Now, the last time you went to school how do  
5 you go to and from school?

6 A. Sometimes my dad drive me or I take mental health  
7 bus.

8 Q. Okay.

9 A. What you call that, special ed. bus.

10 Q. And sometimes, I remember reading your school  
11 records, sometimes they take you to Wal Mart, do you remember  
12 that?

13 A. No.

14 Q. You don't remember working at Wal Mart?

15 A. No.

16 Q. Now, the last time you went to school do you  
17 remember, at Pahoa, do you remember whether or not your dad  
18 took you or whether or not you were dropped off by the bus?

19 A. I think my dad took me.

20 Q. Okay. Do you remember playing by the beach on the  
21 Big Island near your house?

22 A. Beach? They don't have a beach.

23 Q. No.

24 A. (Nods negatively.)

25 Q. More like rocks, yeah?

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1 A. Yeah.

2 Q. Now, do you remember somebody by the name of Elvis,  
3 or Hawaiian Joe?

4 A. No.

5 Q. No. Okay. How about trying to get a pet, have you  
6 tried getting a pet?

7 A. No.

8 Q. No. Do you remember riding your bike around on the  
9 Big Island? You had a purple bike?

10 A. No. Had a red bike.

11 Q. You had a red bike. Who had the purple bike? Was  
12 that Neal?

13 A. My sister. My brother had a silver bike.

14 Q. So you had a red bike. Do you remember riding around  
15 on your red bike?

16 A. No.

17 Q. You don't. How about your friends, do you remember  
18 your friends?

19 A. No.

20 Q. You don't remember Igloo?

21 A. Igloo.

22 Q. Igloo. No? Okay. When was the last time you  
23 remember being drugged up by heroin?

24 A. When I went to school, the next day and after that.

25 Q. The last time you went to Pahoa?

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1 A. Yeah. And the next day after that.

2 Q. I see. Do you remember when was the last time you  
3 remember using marijuana?

4 A. The day when I was in the house. I don't remember  
5 what day that was. I don't know what day that was.

6 Q. Do you remember when the police arrested you and you  
7 had marijuana on you?

8 A. I don't remember the police with me but I know I had  
9 marijuana on me.

10 Q. Would you take it to school with you?

11 A. No. I always keep it in the house. I don't take  
12 that to school because you can get arrested for that.

13 Q. Have you ever been in trouble in school before?

14 A. I used to get beat up in school. I never got in  
15 trouble. People beat me up.

16 Q. Oh, yeah? I thought you were bigger than all the  
17 other kids in school.

18 A. No, I was the small kid. I was like Neal's size, my  
19 brother's size then. Everybody, like I went to like Pahoa  
20 High School, but it was like my school was right by the high  
21 school side. I had my school was on the high school ground.  
22 Like everybody was bigger than me, and they used to pick on  
23 me and beat me up. The high school kids.

24 Q. But before you went to Pahoa High School you went to  
25 Pahoa Elementary?

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1 A. Yes.

2 Q. And you were bigger than all the other kids there?

3 A. No. They was my size.

4 Q. You don't remember telling one of your counselors  
5 that you could beat up a girl and not get caught for it and  
6 get away with it?

7 A. No.

8 Q. You don't remember saying that? Do you remember a  
9 girl named Scarlett Johnson? You used to like her?

10 A. No.

11 Q. Yeah. I see you smiling.

12 A. She used to go to school with me?

13 Q. Yeah, she used to go to school.

14 A. She was my girlfriend.

15 Q. She was your girlfriend?

16 A. Yes.

17 Q. Okay. And what would you do with her?

18 A. Used to go to her house and stuff.

19 Q. You did. Do you remember did they ever complain  
20 about you to teachers?

21 A. No.

22 Q. Okay. Did you ever try to kiss her?

23 A. She kissed me.

24 Q. Okay. Do you remember another little girl by the  
25 name of Faolina, "Felina," Igloo's sister?

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1 A. No.

2 Q. Okay. You don't. Have you ever tried to ask the  
3 little girls out to be your girlfriend?

4 A. No.

5 Q. No?

6 A. Only my girlfriend. One, the one where I was used to  
7 go over the house to. The what you -- the name you just  
8 mentioned.

9 Q. Scarlett, that was your girlfriend? That was the  
10 only one?

11 A. Yeah. Because I used to, one day I took her out to  
12 the mall. We went out to the mall and ate. I think.

13 Q. Have you ever tried to sexually abuse her?

14 A. No.

15 Q. No. You didn't do anything other than kiss her?

16 A. Just kiss her. She kissed back. I kissed back.

17 Q. Were there any other girls, little girls in the  
18 neighborhood, girls your age in the neighborhood who you  
19 tried to kiss?

20 A. No. Only her. That is the only one I liked.

21 Q. That is the one you liked. Was there, when you said  
22 you got beat up, were you teased too?

23 A. Yes. Called retarded, said I can't speak right.

24 Q. Okay. Did you also call the girls names too?

25 A. No.

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1 Q. You didn't call them names?

2 A. No. Only when they call me names. Calling me  
3 retarded and stuff. I called them stupid, and retarded.

4 Q. So you called them names too?

5 A. "Stupid," yeah.

6 Q. Did you make gestures, like showing off your chest?

7 A. Only when I played basketball over there at school.  
8 Got basketball rims.

9 Q. You don't remember like pinching your nipples in  
10 front of the little girls?

11 A. No.

12 Q. Do you remember licking your lips in front of little  
13 girls?

14 A. No.

15 Q. In school?

16 A. No.

17 Q. Do you remember whether or not the teachers ever told  
18 you not to do those things?

19 A. My teachers always help me with math and stuff.

20 Q. None of the counselors or the security guard ever  
21 told you not to call girls names?

22 A. They didn't have security guards there.

23 Q. No, they didn't?

24 A. No.

25 Q. What about Pahoa Elementary, do you remember teachers

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1 or counselors telling you not to call them names or not to  
2 make gestures?

3 A. I stayed away from them. Because they were trouble  
4 to me. They used to call me retarded and stuff. I stayed  
5 away from them.

6 Q. And you know you're telling the truth now?

7 A. Yes.

8 Q. Was there a time in school you remember that the  
9 teachers asked your parents to come and talk about you?

10 A. I don't remember.

11 Q. You don't remember that. Not in Michigan?

12 A. I don't remember.

13 Q. How about in Pahoa Elementary?

14 A. They came up there. They came up to speak to them.  
15 Because we had a meeting before they came up and speak to  
16 them.

17 Q. Your parents came to speak to your teacher, yes. Do  
18 you remember what they talked about?

19 A. No.

20 Q. What about Pahoa High School?

21 A. They never had no meeting.

22 Q. No. How many times did your parents come to Pahoa  
23 Elementary to speak to your teachers?

24 A. Only one time when I got in a fight with some boy.

25 Q. What was that fight about?

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1       A.       Um, I think because he was trying to take my  
2       necklace, my chain. He was trying to rip it off my neck, and  
3       I punched him. And their parents had to be, and my parents  
4       had to be there. We had to get along and shake hands and say  
5       "sorry."

6       Q.       That was it?

7       A.       No.

8       Q.       Were there any other meetings?

9       A.       No.

10      Q.       Were there any meetings with Scarlett Johnson's  
11      parents?

12      A.       My girlfriend?

13      Q.       Yes.

14      A.       No.

15      Q.       Did your mom or dad know about your girlfriend?

16      A.       She, the one live right by the store halfway?

17      Q.       I don't know.

18      A.       I thought her name was Carissa.

19      Q.       Could be. Is it Carissa? Your girlfriend was  
20      Carissa?

21      A.       Yeah.

22      Q.       Did your parents know about Carissa?

23      A.       Yes. She used to come, my parents don't mind -- I  
24      don't want to cause her -- and my parents don't want to drop  
25      her and me off at the mall.

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1 Q. Now, you don't remember Scarlett Johnson, whether or  
2 not you had a crush on her?

3 A. I thought you was talking about Carissa at first.

4 Q. Two different people?

5 A. No, I thought you was talking about Carissa.

6 Q. So you never had a crush on Scarlett Johnson?

7 A. No.

8 Q. You don't remember teasing or making gestures with  
9 your nipples or licking your lips?

10 A. No.

11 Q. Do you remember an abandoned house by Opihi Street?

12 A. No.

13 Q. Where you rode your bike around the neighborhood? Do  
14 you remember doing like a Blair Witch kind of video?

15 A. No.

16 Q. Do you know what Blair Witch video is?

17 A. Huh-huh.

18 Q. No. Okay. You and the kids ever went into an  
19 abandoned house?

20 A. I don't remember.

21 Q. No. How about a little boy named Matt Kent, do you  
22 remember a little boy named Matt?

23 A. No.

24 Q. You don't remember any abandoned house?

25 A. No.

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1 Q. Do you remember Kau'i the little girl, Kau'ilani?

2 A. No.

3 Q. Did your parents ever tell you why you were in the  
4 State Hospital?

5 A. No.

6 Q. Now, you have met Tom Tsuchiyama as your attorney.  
7 Do you remember another attorney named Tony Bartholomew, big  
8 guy?

9 A. Yeah, I remember him.

10 Q. Do you know why he was representing you?

11 A. Been so long I don't even remember.

12 Q. Do you remember going to the Hilo courthouse?

13 A. I remember that. Going inside and coming out and  
14 they sent me to the State Hospital. I remember I was at the  
15 State Hospital the next day.

16 Q. Did he tell you why they brought you to the  
17 courthouse?

18 A. They only say I have mental issues.

19 Q. They didn't tell you about a little girl who got  
20 killed?

21 A. No. They only read a piece of paper said -- what? A  
22 piece of paper said, um, you have psychiatric issues that the  
23 psychiatric doctors said stuff like that. I had three panel  
24 doctor.

25 Q. Why is it that you cannot remember so much?

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1       A.       I got hit by a car when I was ten in Michigan when I  
2       was little in Michigan. I got two scars on the other side  
3       right here, the hair covering up a little, and another scar  
4       right there. I had to get staples right there. (Indicating)

5       Q.       And ever since then you have been forgetting a lot?

6       A.       Yes.

7       Q.       Did you tell the judge about anything that you  
8       remember as to why you got arrested? Do you remember Judge  
9       Nakamura in Hilo?

10      A.       I don't remember.

11      Q.       And there was a haole judge there, Judge Gaddis too?

12      A.       I remember he was a nice guy. He gave me out passes.

13      Q.       He did.

14      A.       To go out pass, like go to the movies with the other  
15      kids and stuff.

16      Q.       I see. Do you remember why you were -- Did the judge  
17      tell you why you were in the State Hospital or why you were  
18      moved to the Detroit hospital?

19      A.       No.

20      Q.       Do you know why?

21      A.       No. I thought only I was getting treatment.

22      Q.       Why didn't you get treatment before?

23      A.       What do you mean by that?

24      Q.       Well, you got hit in the head, right?

25      A.       I did go to counselor for that, then I stopped when I

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1 moved to Hawaii. I was going to counselor in Detroit for  
2 that injury. Like you go to the injury thing, like try to  
3 remember that stuff. I was going to counseling to Detroit  
4 for that. But when we moved to Hawaii it stopped.

5 Q. Okay. And I want you to look, again, I am sorry, at  
6 these. Because when we were showing you a diagram at least  
7 you could remember the diagrams.

8 Do you know, in any of this A, B and C where Holly  
9 lived? Where Holly, do you remember Holly, is the girl with  
10 the daughter?

11 A. I don't know where she lived. But I know where the  
12 man lived.

13 Q. The one with the boat?

14 A. Yeah. He lived in number three.

15 Q. Number three.

16 A. Yes.

17 Q. That's the one you said where everybody, all the men  
18 would hang out?

19 A. Yes.

20 Q. And where you were sexually abused?

21 A. Yes.

22 Q. Okay. Other than that man with a boat and Holly, and  
23 your brothers and sisters, your brother and your sisters, and  
24 your mom and your dad and you, who else do you remember  
25 living in this house?

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1 A. All the man and that it. I don't know where the lady  
2 lived. I didn't know where she lived.

3 Q. But you know she lived in the house somewhere?

4 A. Yeah. Somewhere.

5 Q. Okay. Do you know what's going to happen to you  
6 after today?

7 A. What?

8 Q. Do you know --

9 A. Go back to the unit.

10 Q. Okay. And then you're going to go to the Mainland,  
11 remember?

12 A. Yes.

13 Q. On Monday?

14 A. (Witness nods.)

15 Q. Do you know what's going to happen to you on the  
16 Mainland?

17 A. Get treatment, and try to get better.

18 Q. Okay. What do you want to be when you grow up?

19 A. Go to the Army.

20 Q. You want to go to the Army. Okay. You know what we  
21 have been talking about, we have been talking about your  
22 living on the Big Island. Is there anything else -- and it  
23 didn't sound like you were having fun there, because you were  
24 sexually abused?

25 A. That wasn't fun.

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1 Q. That wasn't fun. But at least you had a girlfriend  
2 named Carissa, right?

3 A. Yes.

4 Q. And you went to Pahoia. Is there anything else about  
5 living on the Big Island that you can tell us?

6 A. No.

7 MS. SAN BUENAVENTURA: Okay. I have no further  
8 questions of Mr. Davis.

9 MR. TSUCHIYAMA: I got no questions.

10 MS. SAN BUENAVENTURA: Okay. Thank you very much.  
11 Thanks for talking to us.

12 (Whereupon the deposition was concluded at 12:08  
13 p.m.)

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1 I, MARK DAVIS, JR., do hereby certify that I have  
2 read the foregoing typewritten pages 1 through 42, inclusive,  
3 and corrections, if any, were noted by me on the corrections  
4 sheet, and the same is now a true and accurate transcript of  
5 my testimony.

6  
7  
8  
9 Date:

10  
11  
12  
13  
14  
15 Signed before me this  
16 day of  
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1       STATE OF HAWAII                               )  
  )     SS.  
2       CITY AND COUNTY OF HONOLULU )  
3

4               I, Cynthia M. Smith, a Notary Public in and for the  
State of Hawaii, do hereby certify:

5               That on Saturday, February 4, 2006, commencing at  
11:20 a.m. appeared before me MARK DAVIS, JR., the witness  
6       whose testimony is contained herein; that prior to being  
examined, he was by me duly sworn; that the proceedings were  
7       taken by me in machine shorthand and reduced by computer to  
typewriting; that the foregoing represents, to the best of my  
8       ability, a true and correct transcript of the proceedings had  
in the foregoing matter.  
9

10              That, if applicable, the witness was notified through  
counsel, by mail or by telephone, to appear and sign; that if  
11     the deposition is filed without signature, either the reading  
and signing were waived by the witness and all parties, or  
12     the witness has failed to appear, and the original has been  
sealed unsigned.

13              That pursuant to HRCP 30(f)(1) the original will  
be forwarded to noticing counsel for retention.  
14

15              I further certify that I am not attorney for any of  
the parties hereto, nor in any way interested in the outcome  
16     of the cause name in the caption.

17              Dated:

18

19

20   Cynthia M. Smith  
Notary Public, State of Hawaii  
C.S.R. NO. 153

21

22              My commission expires:  
6-6-2006

23

24

25

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